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## Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

# USA COMMERCIAL MORTGAGE COMPANY.

## USA CAPITAL REALTY ADVISORS, LLC.

# USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC.

**USA CAPITAL FIRST TRUST DEED  
FUND, LLC.**

## USA SECURITIES, LLC,

## Debtors.

### Affects:

- All Debtors
  - USA Commercial Mortgage Company
  - USA Capital Realty Advisors, LLC
  - USA Capital Diversified Trust Deed Fund, LLC
  - USA Capital First Trust Deed Fund, LLC
  - USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING  
DANIEL HAYES TO APPEAR FOR  
EXAMINATION PURSUANT TO  
FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating

Trust (the “Trust” or “Movant”) hereby moves this Court for an order requiring Daniel Hayes (“Hayes”) to appear, as set forth in a subpoena to be issued under Federal Rule of Bankruptcy Procedure 9016, for examination at the office of Merrill Legal Solutions, 25

1 W. 45<sup>th</sup> Street, Suite 900, New York, New York 10036, on a business day no earlier than  
2 ten (10) business days after the filing of this Motion, or at such other mutually agreeable  
3 location, date, and time, and continuing from day to day thereafter until completed.  
4

5 This Motion is further explained in the following Memorandum.

6 **Memorandum**

7 The Movant seeks information concerning transactions and other dealings between  
8 Hayes and USACM, the other debtors in the above-captioned cases (together with  
9 USACM, the “Debtors”), and the Debtors’ insiders, affiliates, subsidiaries, parents, or  
10 otherwise related entities. The Movant seeks this information to assist in the collection of  
11 the assets and the investigation of the liabilities of the Debtors.

12 The requested discovery from Hayes is well within the scope of examination  
13 permitted under Bankruptcy Rule 2004, which includes:

14 [t]he acts, conduct, or property or . . . the liabilities and financial condition  
15 of the debtor, or . . . any matter which may affect the administration of the  
16 debtor’s estate, or to the debtor’s right to a discharge. In a . . .  
17 reorganization case under chapter 11 of the Code, . . . the examination may  
18 also relate to the operation of any business and the desirability of its  
19 continuance, the source of any money or property acquired or to be acquired  
20 by the debtor for purposes of consummating a plan and the consideration  
given or offered therefore, and any other matter relevant to the case or to the  
formulation of a plan.<sup>1</sup>

21 **Conclusion**

22 Accordingly, the Movant requests that this Court enter the form of order submitted  
23 with this Motion.

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<sup>1</sup> FED.R. BANKR. P. 2004(b).

1 Dated: November 5, 2007.

2 **DIAMOND MCCARTHY LLP**

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